



U.S. Department of Justice

Brett L. Tolman

**United States Attorney
District of Utah**

**FOR IMMEDIATE RELEASE
JUNE 30, 2008**

**CONTACT: MELODIE RYDALCH
801-325-3206
801-243-6475 (CELL)**

PRESS RELEASE

U.S. Attorney's Office Files Response In Civil Action Involving Bear Attack

"Today in U.S. District Court in Salt Lake City, the U.S. Attorney's Office is filing the government's response to a claim filed in connection with the death of a child in American Fork Canyon on June 17, 2007. The child's injuries were consistent with a bear attack.

"While we are fulfilling our responsibilities in defending the United States in this action, we recognize the tragic event at the center of this action and express our sympathy to the family and friends of the child killed last summer.

"The U.S. Attorney's Office is relying on well-tested, broadly-applied law in the memorandum it is filing today. Many cases involving injuries sustained by people recreating on public lands have worked their way through the courts over the years. Today's memorandum does not advance a novel legal theory.

"The U.S. Attorney's Office is asking a federal judge today to dismiss the plaintiffs' claims of negligence against the United States because they

are barred by the discretionary function exception to the Federal Tort Claims Act. The discretionary function exception protects policy-based decisions from second-guessing by individuals and courts by precluding lawsuits challenging these decisions.

“We are asking the judge to recognize that because the Forest Service’s decisions relating to warnings and the management of developed campgrounds are discretionary and involve balancing a variety of public policy considerations, they are protected by the discretionary function exception and the plaintiffs’ claims should be dismissed.”

#####